

LOCAL RULE 5005-2
Defective Pleadings and Papers

(a) The Clerk shall time-stamp every pleading or paper presented for filing as soon after receipt as practicable.

(b) The Clerk shall reject, without filing, pleadings or papers:

(1) Which are not accompanied by a fee required to be paid at the time of filing by 28 U.S.C. § 1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule); or

(2) Which are intended to be filed in a case which either does not exist in this Court or has been closed, unless the pleading is a petition to reopen the closed case or is ancillary thereto. For the purposes of this subsection, a fee will not be considered tendered for payment unless it is in cash, is in the form of a properly executed certified check or money order, is an attorney's credit card, or is a check drawn upon the account of an attorney whose checks are acceptable to the Clerk.

(c) The Clerk may reject, without filing, pleadings or papers which are not verified by original signature as required by FED. R. BANKR. P. 1008.

(d) The Clerk may strike, after filing, any pleadings or papers which are defective in any of the following respects:

(1) They are not signed or verified as required by FED. R. BANKR. P. 9011;

(2) They are not accompanied by the required number of copies;

(3) They are required to substantially conform to an official form and they fail to do so or they omit material information;

(4) They are submitted on paper which does not measure 8 ½" by 11"; or

(5) They substantially and materially vary from the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, or these Local Bankruptcy Rules.

The Clerk shall send notice of the striking of any pleadings or papers to the filing party as quickly as practicable. A defective pleading or paper which is amended to correct the defect within 20 days shall be considered filed as of the date that the pleading or paper was originally received by the Court.

(e) Failure to file documents with a bankruptcy petition or adversary proceeding complaint required by LBR 5005-3 will be deemed a defective filing.

(f) Any entity affected by the rejection or striking of a pleading may file a motion for judicial review of such action within 20 days of the date of service of the notice of the rejection or striking. If the Court determines that the action of the Clerk was improper, the Court may order that the pleading or paper be deemed properly filed. The time and date of filing shall be determined by the Court. Notice of a motion for judicial review of such action shall be served upon all affected parties by the moving party, who shall also promptly file a proof of service.